

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

ROY E. JOHNSON,)	
)	
Plaintiff,)	CV-S-02-1305-PMP (LRL)
)	
v.)	
)	
LAS VEGAS METROPOLITAN POLICE)	<u>O R D E R</u>
DEPARTMENT, et al.,)	
)	
Defendants.)	
_____)	

Before the Court for consideration is the Motion to Dismiss or in the Alternative, Motion for Summary Judgment (#97), filed July 1, 2005, on behalf of Defendants Debbie Love, Randy Paar, Todd Hendrix, and former LVMPD Sheriff Jerry Keller. Plaintiff filed a Response in opposition to Defendants' Motion (#118) on August 11, 2006, and Defendants' filed a Reply Memorandum (#120) on August 25, 2006. Having read and considered the foregoing, the Court finds that Defendants' Motion must be granted.

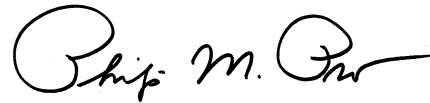
First, Plaintiff's allegations of violations of Plaintiff's Fourth Amendment Rights in connection with his arrest set forth in Count 1 of Plaintiff's Second Amended Complaint, must be dismissed for failure to state a claim for relief under 42 U.S.C., § 1983, and because Plaintiff's allegations constitute an indirect attack on his criminal conviction which is improper under Heck v. Humphrey, 114 S.Ct. 2364-2372 (1994).

The same defect is present with regard to Plaintiff's Fourteenth Amendment claim set forth in Count 2 of Plaintiff's Amended Complaint. Additionally, Plaintiff has failed to demonstrate any evidence supporting an allegation of "significant injury" which

1 would be required to maintain an excessive force claim, thereby subjecting Plaintiff to an
2 adverse determination on alternative Motion for Summary Judgment.

3 IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss or, in the
4 Alternative, Motion for Summary Judgment (#97) is GRANTED and that Judgment is
5 hereby entered in favor of Defendants and against Plaintiff.

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7 DATED: August 31, 2006

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10 PHILIP M. PRO
Chief United States District Judge